

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

SAMUEL LOVE,
Plaintiff
v.
MARK G. STAINBROOK, et al.,
Defendants.

Case No. 2:22-cv-02878-FLA (GJS)

**ORDER TO SHOW CAUSE RE:
POSSIBLE DISMISSAL**

On April 29, 2022, Plaintiff filed a complaint entitled “Rape and Physical Injury Lawsuit for Injunctive and Equitable [sic] Relief, Monetary Damages, and Punitive Damages.” [Dkt. 1, “Complaint”.] The Complaint sues 23 Defendants: Mark G. Stainbrook; Huma Ahmed; Karen S. Lynch; “The Four Policy Officers From The Beverly Hills Police Station”; CVS Manager ““Venus””; Eric Garcetti, Mayor of Los Angeles; Gavin Newsom, Governor of California; Rob Bonta, Attorney General for California; Rochelle Walensky, Director of the Centers for Disease Control and Prevention; Dave North; Matthew Walton; John E. Chaqueca; Carla Smith; the Beverly Hills Police Station; the City of Beverly Hills; the City of Los Angeles; the State Of California; CVS Health; Garfield Beach CVS LLC; the Centers for Disease Control And Prevention (“CDC”); the Superior Court of California (County of Los Angeles); “Sedgwick”; and George Hills Company, Inc.

The Complaint's Allegations

The overarching theory of the Complaint is that all 23 Defendants “are guilty of forming a conspiracy to rape and physically injure Plaintiff and then refused to pay monetary damage compensation to Plaintiff.” [Complaint at 2.] Somewhat more specifically – although the Complaint is far from specific factually – Plaintiff alleges that the asserted rape and injuries took place on “October 16, 2022” – a date that has not yet occurred. [Complaint at 2.]¹ Plaintiff alleges that he was at an unspecified CVS pharmacy location and Defendant CVS Manager Venus denied him service, because he was not in compliance with the store’s mask policy, which Plaintiff contends is a “fake mandate that lawfully does not apply to” him. A CVS employee called the Beverly Hills Police Station “with “false accusations.” Plaintiff left the CVS intending to go home. [*Id.* at 2-3.]

Plaintiff alleges that while he was heading home, he decided to go inside Ace Medical Pharmacy, but once inside, he was attacked by two Beverly Hills “Policy Officers” – Agent Rose, a male, and a short Black female, name unknown. Agent Rose grabbed Plaintiff’s right arm and forced him outside the pharmacy. Once all three were outside, the two “Policy Officers” “assaulted, harassed, injured and raped Plaintiff.” [Complaint at 3.] Plaintiff alleges that they “sexually fondled [his] genitalia, groin area, inner thighs, and buttocks.” The female officer put her hands in his front trouser pocket and removed his wallet and private property and then hit Plaintiff’s hands “really hard,” which caused his cellphone to drop to the floor, thereby ending his effort to record the incident. [*Id.*] Plaintiff alleges that both officers handcuffed him tightly, which caused wrist pain, that his knees were injured when the officers pushed him against a cement wall, and that his “back, neck and

¹ Later in the Complaint, Plaintiff refers to events that occurred in the early part of 2022, when he made one or more claims regarding the incident at issue, and to seeking medical treatment on October 17, 2021, due to injuries he suffered. Thus, the Court assumes that the reference to October 16, 2022 is a typographical error and that the event occurred on October 16, 2021.

1 brain were also negatively affected” (hereafter, the “October 16 Incident”). [Id. at
2 5.] Plaintiff contends that the October 16 Incident caused him to be “trafficked.”
3 [Id. at 4, 6, 10.]

4 With respect to the Defendants outside of the above-noted two “Policy
5 Officers,” the Complaint is bereft of many factual allegations or inkling about why
6 they are named as Defendants. Plaintiff references a “Policy Officer Downs,” who
7 perhaps is among the Defendants named as “The Four Policy Officers From The
8 Beverly Hills Police Station,” although this is uncertain. Plaintiff alleges that
9 Downs “intimidated, extorted, degraded and publicly shamed Plaintiff to get private
10 information and forced Plaintiff to agree to a simulation of legal process and illegal
11 Ponzi scheme” by stating that Plaintiff would be taken to jail unless he signed a
12 Notice to Appear and provided his fingerprints. [Complaint at 6.] Plaintiff contends
13 that this officer could not issue a Notice to Appear without a subpoena and that
14 Plaintiff “does not qualify for the offer to appear in court, and so the offer was
15 declined and permanently dismissed.” [Id. at 6-7.]

16 With respect to Defendants City of Los Angeles, City of Beverly Hill,
17 Beverly Hills Police Department, and the Four Policy Officers, Plaintiff alleges that
18 they stole, shared, and sold his personal data to third parties, including law firms,
19 although he does not allege any facts about how this occurred. [Complaint at 8-9.]

20 With respect to Defendants CDC and its Director (Rochelle Walensky), the
21 sole reason stated for why they are named as Defendants is that Plaintiff believes the
22 CDC has published unidentified “deceptive communications” with “ill motives and
23 intent,” including regarding mask mandates that Plaintiff contends do not apply to
24 him. He asserts that these unidentified “deceptive communications” are the cause of
25 above-described October 16 Incident rape and battery. [Complaint at 8.]

26 The Complaint also includes a section entitled “Failed Attempts to Settle
27 Claim Privately,” which read in full and liberally indicates that Plaintiff made
28 claims to various entities/persons based on the October 16 Incident, including

1 possibly to CVS, the City of Beverly Hills, the Beverly Hills Policy Department, the
 2 City of Los Angeles, the State of California, and the CDC. Plaintiff alleges that
 3 Defendants Mark G. Stainbrook and the Beverly Hills Police Department, Huma
 4 Ahmed and the City of Beverly Hills, Karen S. Lynch and CVS,² CDC and Rochelle
 5 Walensky, Eric Garcetti and City of Los Angeles, Gavin Newsom and the State of
 6 California, and Defendant Los Angeles County Superior Court failed to respond to
 7 his claims. [Complaint at 10-13.] Plaintiff alleges that although he has “ordered”
 8 Defendants Rob Bonta and the State of California to “enforce” his claim and
 9 “enforce the Judgments against Defendants,” they have failed to do so, and instead,
 10 they sent him a letter stating that the Attorney General’s office only reviews matters
 11 involving credible allegations of criminal conduct, even though Plaintiff’s letter
 12 “clearly indicated criminal conduct was involved.” [Id. at 12.] Plaintiff alleges that
 13 Defendant George Hills Company, acting on behalf of Defendant City of Beverly
 14 Hills, acted unlawfully in rejecting Plaintiff’s claim given that it lacked “first-hand
 15 knowledge of the rape and physical injury.” [Id. at 11.] Plaintiff alleges that he
 16 received a January 4, 2022 letter from Defendant Matthew Walton, a claims
 17 examiner at Defendant Sedgwick (which acts on behalf of Defendant CVS), that
 18 Plaintiff left voicemails for Walton in February 2022, that Walton and Plaintiff
 19 spoke on March 9, 2022, and despite Walton’s promise to expedite matters and
 20 promptly call Plaintiff again, Plaintiff has not heard from Walton, Sedgwick, or
 21 Defendant Dave North (alleged to be Sedgwick’s CEO). [Id. at 11-12.]

22 The Complaint alleges six Causes of Action. The First Cause of Action is one
 23 for “Rape.” The claim alleges that the two above-noted Defendant Beverly Hills
 24 “Policy Officers” sexually fondled and raped Plaintiff, which he asserts violated the
 25 2003 federal law commonly known as PREA (the Prison Rape Elimination Act).

27 ² The Complaint fails to identify who these individual Defendants are, but a Google search
 28 indicates that Stainbrook is the Chief of the Beverly Hills Police Department, Ahmed is the City
 Clerk for the City of Beverly Hills, and Lynch is the President and CEO of CVS.

1 [Complaint at 4-5.]

2 The Second Cause of Action is labelled “Physical Injury.” As described
3 above, Plaintiff alleges that the two “Policy Officers” injured him during the
4 October 16, 2021 incident, including causing an ongoing left knee injury.

5 [Complaint at 5.]

6 The Third Cause of Action is labelled “Criminal Conduct.” Plaintiff alleges
7 that all 23 Defendants “knowingly and willingly acted outside their jurisdiction and
8 official powers and duties by misapplying policies, code, and activity regulations to
9 engage in criminal conduct to attack and severely injure Plaintiff, extort his Life
10 force and payment in a state-wide money laundering and Federal Funding Ponzi
11 scheme, then refuse monetary compensation to Plaintiff for all damages caused.”

12 [Complaint at 6.] Plaintiff alleges that Defendants City of Beverly Hills and their
13 four “Policy Officers,” CVS and its individual named Defendants, the City of
14 Beverly Hills, and the CDC are guilty of the state law crime of “aggravated battery.”
15 Plaintiff also mentions the above-described actions of Officer Downs, which
16 Plaintiff contends renders Defendants Beverly Hills Police Department, City of
17 Beverly Hills, and Los Angeles County Superior Court guilty of the state law crimes
18 of fraud and unspecified “criminal conduct.” Plaintiff asserts that: the local and
19 state official Defendants have taken oaths to support the United States Constitution
20 and California’s Constitution and law; therefore, Defendants Four Policy Officers,
21 the State of California, the City of Los Angeles, the City of Beverly Hills, the
22 Beverly Hills Police Department, the CDC, CVS, and all individual local and state
23 Defendants are guilty of “treason” under 18 U.S.C. § 2381; and all other Defendants
24 are guilty of having given them “aid and comfort” to “conduct the treasonous acts.”
25 Plaintiff asserts that all 23 Defendants are guilty of “rebellion and insurrection”
26 under 18 U.S.C. § 2383, and “meet the criteria for enemy combatants.” Plaintiff
27 asserts that the two “Policy Officers” who raped and assaulted him, the Beverly
28 Hills Police Department, the City of Beverly Hills, the City of Los Angeles, the

1 State of California, the CDC, and CVS “are guilty of Class A felonies, pursuant to
2 18 U.S. Code § 3559(a)(1).” Plaintiff asserts that all Defendants have committed
3 the state law crimes of larceny and fraud. Plaintiff asserts that Defendants
4 Sedgwick, Matthew Walton, and Dave North have violated the California Insurance
5 Code by failing to settle his claim. Finally, as noted above, Plaintiff contends that
6 the CDC – through its communications regarding mask mandates and otherwise –
7 caused the October 16 Incident rape and battery of Plaintiff. [Complaint at 6-8.]

8 The Fourth Cause of Action is labelled “Aggravated Identity Theft.” As
9 noted earlier, Plaintiff contends that Defendants City of Los Angeles, City of
10 Beverly Hill, Beverly Hills Police Department, and the Four Policy Officers stole,
11 shared, and sold his personal data to third parties, and have monetized his
12 intellectual property and data through unidentified means. He asserts that these
13 Defendants, therefore, have violated California’s data protection and computer
14 privacy laws. Plaintiff also asserts that Defendants Beverly Hills Police Department
15 and City of Beverly Hills conspired with Defendant CVS “to make a merchandise of
16 Plaintiff and sold Plaintiff, which is a form of human trafficking,” and that under
17 Deuteronomy 42:7, they should be put to death. Plaintiff further asserts that
18 Defendants Mark G. Stainbrook, Huma Ahmed, Eric Garcetti, Gavin Newsom, Rob
19 Bonta, the Beverly Hills Police Department, the City of Beverly Hills, the City of
20 Los Angeles and the State of California are in violation of 18 U.S. Code §
21 1028A(a)(2) through some unspecified means. [Complaint at 8-9.]

22 The Fifth Cause of Action is labelled “Terrorism.” Plaintiff alleges that
23 Defendants State of California, City of Los Angeles, City of Beverly Hills, Beverly
24 Hills Police Department, the CDC, CVS and all employees and agents, the four
25 “Policy Officers,” and “all other representatives of such corporations, including
26 those that attacked Plaintiff, are involved in violent crime and are domestic terrorist
27 organizations.” Plaintiff alleges that all 23 Defendants “failed to defend the
28 interests of the United States according to the law; they are a threat to public safety;

1 are engaged in criminal acts; and are guilty of unlawful behavior” and “are guilty of
2 being directly and/or indirectly engaged in domestic terrorism and failed to protect
3 the security of the United States because of the acts committed against Plaintiff.”
4 Plaintiff alleges that all Defendants are in violation of, and guilty of international
5 and domestic terrorism, under 18 U.S.C. §§ 2332b(a)(1)(A) and 2331(1) and (5),
6 and must be punished under 18 U.S.C. § 2332b(c)(1)(B)-(E). [Complaint at 9-10.]

7 The final, Sixth Cause of Action is labelled “Human Trafficking.” Plaintiff
8 alleges that Defendants “Beverly Hills Police Department, the City of Beverly Hills,
9 the City of Los Angeles, the State of California, CVS, the CDC, Sedgwick, and
10 George Hills Company, Inc. are organized, sophisticated criminal enterprises
11 directing and leading criminal activities, deceptive communicate [sic] and coercion
12 to ensnare Plaintiff in a permanent condition of involuntary servitude within an evil
13 system of control and human trafficking.” Plaintiff alleges that “[t]hese
14 corporations are controlling the narrative to control and traffic Plaintiff and The
15 American People.” He alleges that the October 16 Incident constitutes “human
16 trafficking violations” and that the Defendants “are in severe violation of the
17 Trafficking Victims Protection Act, 22 U.S.C. 7101 and Executive Order 13903.”
18 [Complaint at 10.]

19 As monetary relief sought, Plaintiff states that the Defendants are “fined” as
20 follows: \$17,000,000 from the Beverly Hills Police Department and the City of
21 Beverly Hills; \$17,000,000 from CVS Health and Garfield Beach CVS, LLC;
22 \$17,000,000 from the CDC; \$4,500,000 from Mark G. Stainbrook; \$4,500,000 from
23 Huma Ahmed; \$4,500,000 from Karen S. Lynch; \$760,550 from CVS Manager
24 “Venus”; \$760,550 each from the two “Policy Officers” who raped and injured him;
25 \$240,550 from the other two “Policy Officers”; \$4,500,500 from Rochelle
26 Walensky; \$9,322,000 from Eric Garcetti; \$9,322,000 from Gavin Newsom;
27 \$9,322,000 from Rob Bonta; \$250,000,000 from, the State of California;
28 \$75,000,000 from the City of Los Angeles; \$7,252,223 from the Los Angeles

1 County Superior Court; \$2,525,000 each from Dave North, Matthew Walton, and
2 Sedgwick; and \$1,722,300 each from John E. Chaqueca, Carla Smith, and George
3 Hills Company. Plaintiff also seeks punitive damages. [Complaint at 13-15.]

4 As further relief, Plaintiff seeks to have the property, assets, and bank
5 accounts of all Defendants “guilty of Serious Human Rights Abuse and Corruption”
6 immediately blocked. He also seeks to have all Defendants “executed by death
7 penalty” “[b]ecause The Nuremberg Trials are back.” Finally, Plaintiff seeks to
8 have Defendants prohibited from stopping, arresting, detaining, questioning,
9 searching, or seizing Plaintiff or his property, and further, to be prohibited from ever
10 speaking to Plaintiff again except to resolve this lawsuit for any other lawful matter.
11 [Complaint at 15.]

12

13

Dismissal Appears To Be Required

14 “Federal courts are always ‘under an independent obligation to examine their
15 own jurisdiction,’ *FW/PBS, Inc. v. City of Dallas*, 493 U.S. 215, 231, 110 S. Ct. 596,
16 107 L.Ed.2d 603 (1990), and a federal court may not entertain an action over which
17 it has no jurisdiction. *See Insurance Corp. of Ireland, Ltd. v. Compagnie des*
18 *Bauxites de Guinee*, 456 U.S. 694, 701, 102 S. Ct. 2099, 72 L.Ed.2d 492 (1982); *see*
19 *also Magana v. Commonwealth of N. Mariana Islands*, 107 F.3d 1436, 1443 (9th
20 Cir. 1997).” *Hernandez v. Campbell*, 204 F.3d 861, 865 (9th Cir. 2000). A federal
21 court may dismiss an action *sua sponte* for lack of jurisdiction. *Franklin v. State of*
22 *Or., State Welfare Division*, 662 F.2d 1337, 1342 (9th Cir. 1981). “In contrast to
23 dismissals for failure to state a claim, if the court lacks subject matter jurisdiction, it
24 is not required to issue a summons or follow the other procedural requirements.” *Id.*
25 Thus, at the outset of this case, this Court must resolve the critical question of
26 whether it has jurisdiction over the subject matter of the Complaint.

27

28

In addition, “Rule 12(b)(6) [of the Federal Rules of Civil Procedure]
authorizes a court to dismiss a claim on the basis of a dispositive issue of law.”

1 *Neitzke v. Williams*, 490 U.S. 319, 326 (1989). “[I]f as a matter of law ‘it is clear
 2 that no relief could be granted under any set of facts that could be proved consistent
 3 with the allegations’ . . . , a claim must be dismissed, without regard to whether it is
 4 based on an outlandish legal theory or on a close but ultimately unavailing one.” *Id.*
 5 (citation omitted). Under Rule 12(b)(6), a court may dismiss a claim *sua sponte* for
 6 failure to state a claim when the plaintiff “cannot possibly win relief.” *Omar v. Sea-*
 7 *Land Serv., Inc.*, 813 F.2d 986, 991 (9th Cir. 1987); *see also Seismic Reservoir*
 8 *2020, Inc. v. Paulsson*, 785 F.3d 330, 335 (9th Cir. 2015) (reaffirming this rule);
 9 *Sparling v. Hoffman Const. Co., Inc.*, 864 F.2d 635, 638 (9th Cir. 1988) (a district
 10 court may, on its own initiative, dismiss a complaint for failure to state a claim). A
 11 court may do so even when the defendant has not appeared and sought dismissal.
 12 *Id.*; *Ricotta v. State of California*, 4 F. Supp. 2d 961, 968 (S.D. Cal. 1998), aff’d 173
 13 F.3d 861 (9th Cir. 1999). Before *sua sponte* dismissing a claim under Rule 12(b)(6),
 14 a court must give notice of its intention to do so and provide the plaintiff with an
 15 opportunity to oppose such a dismissal in writing. *Seismic Reservoir*, 785 F.3d at
 16 335. This is not required, however, when amendment would be futile, *Omar*, 813
 17 F.2d at 991 (a *sua sponte* “dismissal may be made without notice where the claimant
 18 cannot possibly win relief”).

19 “Pro se litigants must follow the same rules of procedure that govern other
 20 litigants.” *King v. Atiyeh*, 814 F.2d 565, 567 (9th Cir. 1987); *see also Ghazali v.*
 21 *Moran*, 46 F.3d 52, 53-54 (9th Cir. 1995) (*per curiam*) (failure of pro se litigant to
 22 follow procedural rules justified dismissal of civil rights action). This includes
 23 filing a complaint that complies with the Federal Rules of Civil Procedure’s
 24 pleading requirements and, critically, states a basis for federal jurisdiction.

25 Plaintiff did not file a Civil Cover Sheet (Form CV-71) setting forth the basis
 26 for this Court’s jurisdiction over this action, as is required. *See Local Rule 3-1*. The
 27 instant Complaint also does not expressly state what federal jurisdictional basis
 28 Plaintiff contends applies here. Diversity jurisdiction under 28 U.S.C. § 1332 is

1 inapplicable on the face of the Complaint, given that Plaintiff does not allege that all
 2 parties are diverse and that many of the individual Defendants are alleged to be
 3 employed in Los Angeles County and/or are State of California officials and, thus,
 4 would not seem to be diverse to Plaintiff, who lists a Beverly Hills address. The
 5 question, then is whether federal question jurisdiction under 28 U.S.C. § 1331 exists
 6 based on the allegations of the instant Complaint. *See Rivet v. Regions Bank of*
 7 *Louisiana*, 522 U.S. 470, 475 (1998) (“[t]he presence or absence of federal-question
 8 jurisdiction is governed by the ‘well-pleaded complaint rule,’ which provides that
 9 federal jurisdiction exists only when a federal question is presented on the face of
 10 the plaintiff’s properly pleaded complaint”) (citation omitted). Plaintiff does not
 11 actually invoke federal question jurisdiction, but the Court has carefully examined
 12 the Complaint to see if it exists based on Plaintiff’s allegations, including his
 13 assertions that Defendants have violated numerous federal statutes.

14 The First Cause of Action seeks relief on the basis that the conduct of the two
 15 “Policy Officers” during the October 16 Incident violated PREA, the Prison Rape
 16 Elimination Act (34 U.S.C. § 30301 *et seq.*). Plaintiff, however, was not a person
 17 covered by PREA when that conduct or its aftermath occurred based on the
 18 Complaint’s allegations, because he was not an “inmate.” *See* 34 U.S.C.A. § 30309
 19 (defining “inmate” for PREA purposes to mean “any person incarcerated or detained
 20 in any facility who is accused of, convicted of, sentenced for, or adjudicated
 21 delinquent for, violations of criminal law or the terms and conditions of parole,
 22 probation, pretrial release, or diversionary program”). Moreover, and dispositively,
 23 PREA does not provide for a damages remedy and does not give rise to a basis for a
 24 civil claim. *See, e.g., Hernandez v. Coffee Creek Corr.*, No. 3:18-CV-01763-MK,
 25 2020 WL 6905321, at *2 (D. Or. Nov. 24, 2020) (“[t]here is no private cause of
 26 action under PREA”); *United States v. Abrams*, No. 3:14-CR-0069-RCJ-WGC,
 27 2015 WL 8041859, at *2 n.1 (D. Nev. Dec. 4, 2015) (“PREA does not create a
 28 private cause of action”); *Hatcher v. Harrington*, No. 14-00554 JMS/KSL, 2015

1 WL 474313, at *5 (D. Haw. Feb. 5, 2015) (collecting numerous cases so holding);
 2 *L. v. Whitson*, No. 2:08-CV-0291-SPK, 2009 WL 5029564, at *4 (E.D. Cal. Dec. 15,
 3 2009) (“[PREA] in itself contains no private right of action, nor does it create a right
 4 enforceable under Section 1983. Plaintiff thus fails to state a federal section 1983
 5 claim based on a violation of the Prison Rape Elimination Act.”); *Bell v. Cnty. of*
 6 *Los Angeles*, No. CV 07-8187-GW (E), 2008 WL 4375768, at *6 (C.D. Cal. Aug.
 7 25, 2008) (“Plaintiff has no claim under the Prison Rape Elimination Act; the Act
 8 does not create a private right of action.”). Plaintiff’s PREA allegation does not
 9 give rise to federal question jurisdiction.

10 The Second Cause of Action is for “Physical Injury,” but it does not allege
 11 any basis for federal question jurisdiction. Rather, Plaintiff appears to plead a state
 12 law tort claim.

13 The Third Cause of Action is for “Criminal Conduct” asserts that the conduct
 14 of numerous Defendants violated 18 U.S.C. §§ 2381 and 2383, which constituted
 15 “Class A felonies” under 18 U.S.C. § 3559(a)(1), and also violated California law.
 16 Plaintiff’s allegation in this claim and elsewhere that California law was violated
 17 does not serve as a basis for federal question jurisdiction. His assertion that
 18 Defendants violated provisions of the federal criminal code also are inadequate to
 19 form any basis for federal question jurisdiction. 18 U.S.C. § 2381 renders “treason”
 20 a federal criminal offense, and 18 U.S.C. § 2382 renders “rebellion and
 21 insurrection” a federal criminal offense. There are no facts alleged in the Complaint
 22 that, no matter how liberally they are construed, can be said to invoke either crime.
 23 Plaintiff’s assertion that the Defendants committed these federal crimes and are
 24 “enemy combatants” is plainly fantastical, delusional, and legally frivolous within
 25 the meaning of federal law. *See Neitzke*, 490 U.S. at 325; *Franklin v. Murphy*, 745
 26 F.2d 1221, 1227-28 (9th Cir. 1984). A claim may be dismissed sua sponte as
 27 frivolous when, as here, it is based on an indisputably meritless legal theory or
 28 where the factual contentions are clearly baseless. *Neitzke*, 490 U.S. at 327.

Even more importantly for the jurisdictional question, neither of these federal criminal statutes gives rise to a private right of action or civil claim. *See, e.g., El v. California*, 2020 WL 6728090, at *2 (E.D. Cal. Nov. 16, 2020) (finding that pro se plaintiff had no authority to bring claims based on “statutes arising under the criminal code, including such sections as 18 U.S.C. § 2381–Treason...,” and that complaint was frivolous), adopted by 2020 WL 7425250 (Dec. 18, 2020) (dismissing case with prejudice); *Ponvanit v. Superior Court of California*, No. CV 17-4054-FMO (JEM), 2018 WL 1135380, at *9 (C.D. Cal. Jan. 31, 2018) (there is no private right of action under 18 U.S.C. §§ 2381 and 2383), adopted by 2018 WL 1135502 (Feb. 27, 2018); *Vachon v. Reverse Mortgage Solutions, Inc.*, No. EDCV 16-02419-DMG (KES), 2017 WL 6628103, at *9 (C.D. Cal. Aug. 11, 2017) (finding that there is no private right of action under 18 U.S.C. § 2383 and that dismissal with prejudice, therefore, was appropriate), adopted by 2017 WL 6626649 (Dec. 28, 2017); *Nguyen v. Ridgewood Sav. Bank*, No. 14-CV-1058, 2015 WL 2354308, at *13 (E.D.N.Y. May 15, 2015) (dismissing claims for treason and misprision of treason under 18 U.S.C. §§ 2381 and 2382, respectively, because these statutes do not provide a private right of action); *Vinh Hung Lam v. Citigroup, Inc.*, No. CV 08-4317-PA, 2018 WL 1134332, at *2 (C.D. Cal. Aug. 18, 2008) (finding no private right of action exists for federal crimes of treason or conspiracy to commit treason and dismissing the complaint with prejudice). Accordingly, the Third Cause of Action cannot serve as a basis for federal question jurisdiction.

In the Fourth Cause of Action, labelled “Aggravated Identity Theft,” Plaintiff alleges that various Defendants have violated California law, biblical law, and 18 U.S.C. 1028A(a)(2). The allegations of state and biblical law violations do not give rise to federal question jurisdiction. Neither does the invocation of Section 1028A, which adds a sentencing penalty when identity theft is committed in connection with certain specified federal crimes. As with the above-discussed federal criminal statutes, Section 1028A does not give rise to a private right of action enforceable by

1 private citizens civilly. *See, e.g., Chavez v. United States*, No. 1:21-cv-00872-JB-
 2 SCY, 2021 WL 4949191, at *16 (D. N.M. Oct. 25, 2021) (so holding and dismissing
 3 pro se complaint); *Kirby v. Montgomery*, No. 19-CV-0224-CVE-FHM, 2019 WL
 4 1937566, at *2 (D. Ok. May 1, 2019) (same); *Farar v. McNesby*, No. 13-5683, 2014
 5 WL 6861458, at *4 (E.D. Pa. Dec. 5, 2014) (Section 1028A is a criminal statute that
 6 does “not permit a private right of action”; and dismissing claim with prejudice);
 7 *Riga v. Benezette*, No. 6:12-CV-414-ORL-19DAB, 2012 WL 12910269, at *3
 8 (M.D. Fla. July 12, 2021) (finding that, as plaintiff is a private citizen, he “does not
 9 have standing to bring a case under section 1028A because it is a criminal statute”
 10 and jurisdiction over the action is lacking); *Sump v. Schaulis*, No. 07-4014-RDR,
 11 2007 WL 1054277, at *1 (D. Kan. April 9, 2007) (as private citizens, plaintiffs
 12 could not bring a civil action under Section 1028A). The Fourth Cause of Action,
 13 therefore, does not provide any basis for federal jurisdiction.

14 In the Fifth Cause of Action, labeled “Terrorism,” Plaintiff accuses all
 15 Defendants of having engaged in domestic and international terrorism in violation of
 16 18 U.S.C. §§ 2331(1) and (5) and 2332b(a)(1)(A) by the acts alleged in the
 17 Complaint. Even if the acts alleged in the Complaint occurred as Plaintiff claims,
 18 his assertion that these acts constitute domestic and/or international terrorism as
 19 those crimes are defined in the foregoing statutes is plainly fantastical and legally
 20 frivolous, and thus, this claim may be dismissed *sua sponte* on that basis alone.
 21 *Neitzke*, 490 U.S. 319, 325, 327. In particular, Plaintiff’s conclusory assertion that
 22 “Defendants are guilty of international” terrorism is patently frivolous if not
 23 delusional, given that the Complaint alleges nothing more than a verbal altercation
 24 in a Beverly Hills pharmacy due to Plaintiff’s refusal to wear a mask, a subsequent
 25 police stop in another pharmacy in Beverly Hills on October 16, 2021, some
 26 allegedly wrongful acts by the Beverly Hills police that followed, and the failure to
 27 settle by various domestic persons and entities when Plaintiff submitted claims
 28 based on the events of October 16, 2021. There is nothing “international” at issue in

1 the Complaint, much less any “international terrorism,” no matter how liberally it is
 2 construed. Thus, the civil remedy available through 18 U.S.C. § 2333 cannot apply
 3 here. *See Alvarez v. University of Oregon*, No. 6:19-cv-01071-AA, 2020 WL
 4 61036, at *9 (D. Ore. Jan. 6, 2020) (dismissing claim brought under Section 2333
 5 with prejudice, because: “Plaintiff does not allege that defendants’ actions occurred
 6 outside Eugene, Oregon, let alone outside the United States. Nor does plaintiff
 7 allege facts to demonstrate that defendants’ actions ‘transcend national boundaries’
 8 in any way.”).

9 Moreover, neither federal criminal statute cited by Plaintiff affords him a
 10 private right of action that may be enforced civilly outside of an action brought
 11 under Section 2333, a remedy that does not apply to Plaintiff. *See, e.g., Davis v.*
 12 *Federal Bureau of Investigation*, No. 17-cv-01997-BAS-AGS, 2018 WL 1185239,
 13 at *2 (S.D. Cal. March 7, 2018) (there is no private cause of action for domestic
 14 terrorism under Section 2331(5) and a federal claim brought on that basis was not
 15 supported by jurisdiction and dismissed); *Archer v. City of Taft*, No. 1:12-cv-00261-
 16 AWI-JLT, 2012 WL 1458136, at *6 (E.D. Cal. April 26, 2012) (claim for domestic
 17 terrorism brought under Section 2331 dismissed, because the statute does not
 18 provide for a private right of action); *Calhoun v. Mann*, No. 08-458, 2009 WL
 19 839214, at *2 (E.D. Pa. March 26, 2009) (Sections 2331 and 2332b are criminal
 20 statutes that “do not provide a private cause of action”). Accordingly, nothing in the
 21 Fifth Cause of Actions provides federal jurisdiction over this case.

22 Finally, the Sixth Cause of Action is labeled “Human Trafficking.” Plaintiff
 23 contends that the events of the October 16 Incident constitute human trafficking
 24 violations within the meaning of 22 U.S.C. § 7101 and Executive Order 13903.
 25 Plaintiff’s contention that the events alleged fall within the scope of the Trafficking
 26 Victims Protections Act (TVPA) as contained within Section 7101 *et seq.* as well as
 27 Executive Order 13903 is beyond frivolous. There is nothing alleged in the
 28 Complaint that implicates this law, which is designed to prevent human trafficking

1 for the purposes of slavery, involuntary servitude, and forced participation in the sex
2 trade, as well as to protect its victims. There also is nothing in Section 7101 *et seq.*
3 that indicates a private cause of action exists in connection with those provisions.
4 Nor does Executive Order 13901, 85 Fed. Reg. 6721 (Jan. 31, 2020).³

5 Another portion of the TVPA – commencing at 18 U.S.C. § 1581 *et seq.* –
6 does contain a civil remedies provision. Section 1595 allows victims “of a violation
7 of this chapter” to bring a civil action against a perpetrator. Nothing in the
8 Complaint, however, can be liberally construed to set forth any “violation of this
9 chapter” within the scope of Section 1595. The crimes listed within the “chapter”
10 are: holding or returning a person to a condition of peonage (Section 1581);
11 building, equipping, loading, etc. vessels for the purposes of procuring persons from
12 foreign countries to be transported, held, or sold as slaves (Section 1582);
13 kidnapping or enticing any other person for the purposes of having them be sold into
14 involuntary servitude or held as a slave (Section 1583); holding or selling someone
15 into involuntary servitude (Section 1584); seizing a person on a foreign shore or
16 detaining such person for the purpose of making that person a slave (Section 1585);
17 serving on a vessel involved in the transportation of slaves from a foreign country to
18 another (Section 1586); having a person onboard for the purposes of selling that
19 person as a slave (Section 1587); transporting persons from the United States to any
20 other place for the purposes of slavery (Section 1589); providing or obtaining forced
21 labor, or benefiting from the same (Section 1589); engaging in trafficking with
22 respect to peonage, slavery, involuntary servitude, or forced labor (Section 1590);
23 sex trafficking of children (Section 1591); unlawful document-related conduct in
24 furtherance of most of the foregoing crimes (Section 1592); and benefitting

25
26 _____
27 ³ The Executive Order, at Section 6(c), expressly states that it is not intended to, and does
28 not, create any right or benefit, substantive or procedural, enforceable by law by anyone against
the United States and its departments, agencies, entities, officers, employees or agents, “or any
other person.” 85 Fed. Reg. at 6723.

1 financially from violations for certain of the foregoing crimes (Section 1593A). The
 2 Complaint's allegations plainly do not allege conduct by any Defendant that falls
 3 within any of these criminal provisions, and thus, the Section 1595 civil remedy is
 4 inapplicable to Plaintiff. The Sixth Cause of Action does not provide any basis for
 5 federal question jurisdiction.

6 Finally, the Court notes that Plaintiff has named the CDC and its Director as
 7 Defendants. The inclusion of these two federal defendants, however, does not give
 8 rise to a tenable basis for finding that federal jurisdiction exists, given that the
 9 inclusion of the CDC and its Director as Defendants is patently frivolous within the
 10 meaning of *Neitzke, supra*. Plaintiff's sole theory against these two Defendants is
 11 that they caused him to be raped and assaulted by the police on October 16, 2021, by
 12 having earlier published unspecified "deceptive communications," including mask
 13 mandates from which Plaintiff claims to be exempt. There are zero facts alleged
 14 against either federal Defendant in the Complaint; rather, Plaintiff just routinely
 15 lumps them in when describing his generalized and factually unsupported assertions
 16 of "terrorism," "criminal conduct," and "human trafficking." Plaintiff's allegation
 17 that the CDC and its Director caused him to be subjected to such terrible events, as
 18 well as to be raped and battered, is wholly conclusory and factually and legally
 19 frivolous. It seems that Plaintiff has included these two Defendants solely for the
 20 purpose of attempting to manufacture otherwise non-existent federal subject matter
 21 jurisdiction. The Court does not believe that the Complaint's inclusion of this single
 22 bare and palpably frivolous allegation against the CDC and its Director serves as a
 23 viable basis for finding federal question jurisdiction to exist over this lawsuit.

24 The Court's concern here is with jurisdiction – does it exist or not? – and
 25 therefore it has not addressed at any length whether the six claims alleged in the
 26 Complaint fail to state claims upon which relief can be granted. It seems likely that
 27 they do not, but the Court has not analyzed this issue in any depth, because although
 28 a complaint's failure to state a claim may warrant its *sua sponte* dismissal, this

1 normally is deemed a dismissal on the merits rather than a dismissal based on lack
 2 of jurisdiction. The exception to this rule, however, is that “a suit may sometimes
 3 be dismissed for want of jurisdiction where the alleged claim under the Constitution
 4 or federal statutes clearly appears to be immaterial and made solely for the purpose
 5 of obtaining jurisdiction or where such a claim is wholly insubstantial and
 6 frivolous.” *Bell v. Hood*, 327 U.S. 678, 682-83 (1946). As the Supreme Court
 7 explained in *Hagans v. Levine*, 415 U.S. 528 (1974), “the federal courts are without
 8 power to entertain claims otherwise within their jurisdiction” if they are “so
 9 attenuated and unsubstancial as to be absolutely devoid of merit,” “wholly
 10 insubstantial,” “obviously frivolous,” “plainly unsubstancial,” or “no longer open to
 11 discussion.” *Id.* at 536-37 (citations omitted).

12 It is apparent that the Complaint’s lurid and overblown allegations of
 13 terrorism, human trafficking, and other federal crimes and that Defendants are
 14 “enemy combatants” have been included in an ill-disguised attempt to manufacture
 15 federal question jurisdiction that is lacking. These allegations, while dramatic, are
 16 conclusory at best and bereft of any factual support. They appear to violate Rule
 17 11(b) of the Federal Rules of Civil Procedure given their plainly frivolous and
 18 factually baseless nature. Federal question jurisdiction exists only if “there is a
 19 *substantial* question of federal law.” *Lafreniere v. Board of Trustees of California*
 20 *State University*, No. C 06-04475-JSW, 2007 WL 9757966, at *2 (N.D. Cal. March
 21 7, 2007) (citing *Hagans, supra*). The Complaint fails to set forth any substantial
 22 question of federal law and is devoid of a facially tenable basis for finding that
 23 federal jurisdiction exists over this case. Thus, dismissal for lack of jurisdiction is
 24 warranted. *See VanLoan v. Nation of Islam*, 2022 WL 885147, at *1 (9th Cir.
 25 March 5, 2022) (affirming dismissal of pro se complaint because the “claims are too
 26 frivolous and insubstantial to invoke subject matter jurisdiction”); *Franklin*, 745
 27 F.2d at 1227 n.6 (“A paid complaint that is ‘obviously frivolous’ does not confer
 28 federal subject matter jurisdiction” and may be dismissed) (citing *Hagans*).

ORDER TO SHOW CAUSE

For the foregoing reasons, the Court finds that federal jurisdiction over the Complaint does not exist. Plaintiff is ORDERED TO SHOW CAUSE why this case should not be dismissed for lack of jurisdiction. By no later than May 31, 2022, Plaintiff shall file a response to this Order explaining what basis for federal jurisdiction, if any, exists.

Plaintiff is cautioned that the failure to respond to this Order in a timely manner will be deemed to be a concession that jurisdiction is lacking and that the case therefore may be dismissed.

IT IS SO ORDERED.

DATED: May 13, 2022

GAIL J. STANDISH
UNITED STATES MAGISTRATE JUDGE